

OLIGARCHIC POLITICS IN THE CONTEXT OF A DEMOCRATIC RULE OF LAW IN RELATION TO THE PRINCIPLE OF EXPEDIENCY

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Abstract: Indonesia, which is a democratic country, is not necessarily free from the practice of ownership of a handful of groups that influence the course of the National constitution. Oligarchy begins with the fact that extreme material inequality produces extreme political inequality. Although in a democracy, position and access to the political process are interpreted as equal, the enormous wealth in the hands of a small minority creates a significant excess of power in the political sphere for that group. The practice of oligarchic politics in Indonesia has been prominent and widespread since the New Order era. Oligarchy has undermined the philosophical meaning of democracy, which is political power or government run by the people, and for the people. Freedom in the political field certainly does not mean legalizing all means but remains in the corridor as contained in Pancasila as the basic ideology of the Indonesian nation. The good and bad of the law must be measured by the good and bad consequences produced by the application of the law, meaning that legal provisions can be considered good and provide benefits if the consequences resulting from their application are good, maximum happiness, and reduced suffering.

Keywords: Democracy; Oligarchy; Utilitarianism.

1. Introduction

Freedom is a fundamental right received inherently from God Almighty with the existence of each person as an essential individual. Jean Paul Sartre revealed that

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Suftyadi, A.R., Heniarti, D.D., Nu'man, A.H., (2023)

Oligarchic Politics in the Context of a Democratic Rule of Law in Relation to the Principle of Expediency

"we are condemned to be free", but the statement is considered too extreme as if it describes human freedom as having no limits. Freedom that is bound by norms or values that synergize with each other is the freedom aimed at by democracy, which places the people as the highest authority in determining the direction of state policy. Consequently, democracy requires that freedom is a communal participation of the community as a synthesis of various individual participations in order to achieve common interests so that henceforth it can be said to be a communal interest. (Kurniati, 2018).

Post-reform, there have been changes in legal politics in the field of democracy which are very fundamental in the system of election/appointment of regional heads. Along with the birth of legal political changes in the field of very broad regional autonomy governance, the positions of regional heads of Governors, Regents and Mayors are automatically filled in line with the participation of the community as stakeholders through direct elections conducted at the regional level, which are organized by the Regional General Election Commission Level I (KPUD Level I) and the Regency / City Regional General Election Commission (KPUD Kota / Regency). (Md, 2012).

The emergence of political party dynasties and oligarchies, procedurally and structurally, does not only occur around the government but also in the political party sector. Their emergence then changes the main function of political parties because parties are then managed as if they are family institutions or private institutions. This then opens an unhealthy climate for the development of political party democracy. Politics affects various things in the life of a state, and can even change the system of a country (Syauket, 2021). According to Winters, the theorization of Oligarchy starts from the fact that extreme material inequality produces extreme political inequality (Aji, 2020). Although in a democracy, position and access to the political process are equal, the enormous wealth in the hands of a small minority creates a significant excess of power in the political sphere for this group (Aji, 2020; Syahputa & Ahmadi, 2021).

The practice of oligarchic politics in Indonesia is not without cause, indirectly there are several legal provisions in Indonesia that further perpetuate oligarchic political power in Indonesia (Ismayani et al., 2022), Article 6 Paragraph (2) of the 1945 Constitution of the Republic of Indonesia which contains the phrase "a combination of political parties" causes political parties to conspire to strengthen ownership power in the order of state institutions, then in Law Number 2 of 2011 concerning Political Parties Article 2 Paragraph (4) does not require internal party democracy in the Articles of Association / Bylaws, strengthened in Article 16 Paragraph (1) regarding the recalling of members of parliament by political parties causing parliament to lose its independence. A much-discussed example of oligarchic politics in Indonesia is the Ratu Atut Dynasty, in Banten Province (Sutisna, 2017).

The case of the Banten oligarchy refers to the alleged concentration of political and economic power in a small group of people or groups in the Banten region. This is also the case in North Korea. The Kim family is known as the dynasty that has been in control of the country since its establishment in 1948. In the North Korean political system, the Kim family is regarded as the leader who cannot be replaced and has absolute power over the country.

Oligarchy has undermined the philosophical meaning of democracy, which is political power or government run by the people, and for the people (Gunanto, 2020; Tedjo, 2019). Dynastic politics also gives rise to political pragmatism by encouraging families or relatives of the ruler to become public officials (Heriyanto, 2022). Article 3 of Law No. 39/1999 states unequivocally that the Indonesian people are given freedom in the political field, both in terms of organization, political activity and ideology. This freedom in the political field certainly does not mean justifying all means but remains within the corridor as contained in Pancasila as the basic ideology of the Indonesian nation.

2. Literature Review

The term "state of law" in the Indonesian constitutional system has been formally explained in Article 1 Paragraph (3) of the 1945 Constitution of the Republic of Indonesia, which states that "The State of Indonesia is a state of law," enacted on 9 November 2001. Similar formulations were also found in the constitutions of the Republic of Indonesia (RIS) in 1949 and the Provisional Constitution (UUDS) in 1950. Conceptually, there are five relevant concepts of the rule of law, namely *rechtsstaat*, the rule of law, socialist legality, Islamic democracy, and the rule of law (Indonesia). Each of these legal state terms has distinctive characteristics. As with the amendments to the 1945 Constitution of the Republic of Indonesia, the conception of the State of Law or "Rechtsstaat" which was previously only listed in the Explanation of the 1945 Constitution has been formulated explicitly in Article 1 paragraph (3) of the Fourth Amendment in 2002, which states that "The State of Indonesia is a State of Law." The concept of the rule of law illustrates that in the dynamics of state life, law is considered the main commander, not politics or economics. In this principle of the State of Law, there is a commonly used jargon in English, namely "the rule of law, not of man." In other words, the government is integrated into the legal system, not influenced by certain individuals who only act as actors who follow the scenario of the system that has set them up (Rais, 2022).

Oligarchy comes from the Greek, "oligon" meaning few, and "arkho" meaning to rule. In the concept of governance, oligarchy refers to political power that is effectively held by an elite group of people, based on the criteria of wealth, family, or military. According to the Big Indonesian Dictionary (KBBI), oligarchy is defined

Suftyadi, A.R., Heniarti, D.D., Nu'man, A.H., (2023)

Oligarchic Politics in the Context of a Democratic Rule of Law in Relation to the Principle of Expediency

as a government run by a few powerful people from a certain class or group. The International Encyclopedia of Social Science defines oligarchy as a form of government in which political power is held by a small minority. Oligarchy affects political actors, political parties and the political system, and affects all stages of the democratic process, from political recruitment, the political coalition phase, the electoral phase, government formation and policy making. Robert Mitchel calls the emergence of oligarchy a consequence of organizational processes, including political parties, where the larger the organization, the higher the likelihood of oligarchic tendencies, referred to as the "iron law of oligarchy." Oligarchies are also categorized based on the degree of involvement in the imposition of property and wealth rights, involvement in power or governance, the nature of involvement whether collective or fragmented, and the wild or tame nature. Types of oligarchies include Panglima, collective rulers, sultanistic, and civilian, with actors controlling material resources for personal gain, although not necessarily for their own possession. In Indonesia, after the fall of the New Order regime, the oligarchy never went away and has yet to be tamed. During the establishment of democracy, oligarchs and elites remained and consolidated themselves. Oligarchs use democratic and non-violent means to control public resources and dominate money-driven electoral politics, in contrast to the New Order era which was characterized by violence and human rights violations (Fachrudin, 2022).

3. Methodology

The research methods that can be used to study the topic "Oligarchic Politics in the Context of a Democratic Rule of Law in Relation to the Principle of Expediency" with a normative juridical approach are as follows:

3.1. Literature Study: The first step is to conduct a literature study to collect relevant legal theories and views related to oligarchy, politics in the context of a democratic rule of law, and the principle of expediency in law. Researchers can refer to books, journals, papers, laws, and regulations related to the research topic.

3.2. Analyse Regulations and Legal Documents: Researchers need to analyze regulations and legal documents related to oligarchy, democratic rule of law, and expeditionary considerations in political decision-making. This helps to understand the legal basis and relevant legal framework.

3.3. Identification of the Concept of Oligarchy and Democratic Rule of Law Principles: The researcher needs to identify and define the concepts of oligarchy, politics in the context of the democratic rule of law, and the expeditionary principle. This will help in formulating the research questions and analytical framework.

3.4. Normative Analysis: In the normative juridical approach, the researcher will analyze various legal norms related to the research topic, such as laws, court decisions, and other legislations. The purpose of this analysis is to determine the

appropriateness and consistency of oligarchic political practices in the context of a democratic rule of law and applicable expedition principles.

3.5. Creation of a Theoretical Framework: Based on the analyses conducted, the researcher will construct a theoretical framework that describes the relationship between oligarchy, politics in a democratic rule of law, and the expeditionary principle. This theoretical framework will assist in organizing the research findings and formulating conclusions.

3.6. Drawing Conclusions: After carrying out the previous steps, the researcher will draw conclusions based on the analyses and findings that have been collected. These conclusions should clarify how oligarchic political practices relate to the democratic rule of law and the expeditionary principle in a legal context.

3.7. Recommendations: The researcher may provide recommendations based on the results of the research to improve the monitoring and understanding of oligarchic politics in a democratic legal system and the application of the expeditionary principle with due regard to the principle of the rule of law.

In using a normative juridical approach, it is important for researchers to always stick to objective legal arguments and be based on relevant legal sources. This will ensure that the research is based on a strong legal foundation and can provide a deeper understanding of the topic being researched.

4. Results and Discussion

The Constitution affirms that Indonesia is a state of law (Rechtstaat), not a state of power (Machtstaat) (Hurmuja, 2023; Juanda, 2023). This includes the recognition of the principle of the supremacy of law and the constitution, the principle of separation and limitation of powers according to the constitutional system stipulated in the Constitution, the existence of human rights guarantees in the Constitution, the principle of a free and impartial judiciary that guarantees the equality of every citizen in law, and guarantees for everyone, including against abuse of authority by those in power (Christy, Jr., 2021; Romeo, 2020). In the understanding of the rule of law, it is the law that holds the highest command in the administration of the state, which actually leads in the administration of the state is itself in accordance with the principle of the rule of law, and not of man, which is clear with the notion of nomocratie, namely power exercised by law, nomos (Badu & Ahmad, 2021).

When viewed from an Islamic perspective, political law or Maqashid al-syariah, which means human efforts to get the perfect solution and the right path based on the main sources of Islamic teachings, the Al-Quran and Hadisth of the prophet Muhammad SAW. (Ridlo & Muhajirin, 2022). Maqashid Al-Syariah can also be interpreted as the secrets and ultimate goals that the Shar'i intends to realize in every law he enacts (Musolin, 2020). Thus, Maqashid Al-Syariah is the goal and direction

Suftyadi, A.R., Heniarti, D.D., Nu'man, A.H., (2023)

Oligarchic Politics in the Context of a Democratic Rule of Law in Relation to the Principle of Expediency

of Sharia law, which all mujtahids must pay attention to it. One of the principles put forward in Maqashid Al-Syariah is to take the middle way and not to be excessive in applying it, because the maslahat to be realized must refer to revelation, not merely the result of thought alone. The meaning of this understanding is that humans as creatures of Allah SWT who have reason, accompanied by lust which if both are not controlled by involving a vertical relationship between servants and God, then it will become a deviant act. In simple terms, a leader must carry out Amanah with a full sense of responsibility, because in essence, the mandate is a gift as well as a test from Allah SWT to His servants.

After the law is considered to have the aim of providing a sense of justice, expediency, and certainty for the community, there are not a few parties who harm these values. This is the case with the oligarchy system that undermines the democratic system. Oligarchy is a government run by a few powerful people from certain groups (elite groups) (Fachrudin, 2022). The elite group, in running the government, always employs every means to control and dominate the people. One crucial factor that allows oligarchy to endure for a long time is its ability to transform alongside democracy. The symbiotic mutualistic relationship between democracy and oligarchy is accurately depicted by Winters with the phrase: "there is no inherent conflict between oligarchy and democracy, nor between oligarchy and any mode of production." (Fachrudin, 2022).

In essence, a state with a democratic system of government should inherently be a rule-of-law state. This is because without law (that is good, just, and certain), democratic governance struggles to achieve the essence and aspirations of democracy. Without law, democracy can transform into mob rule, as seen in anarchic demonstrations, as the sovereignty of the people (democracy) tends to be susceptible to the temptation of turning into populism and majority dictatorship. Conversely, without democracy, the law can deteriorate into a tool of coercion and oppression against the people, as well as a self-justification and protective shield for those in power. In a democratic state governance system, the law serves as an objective norm that governs the entire order of national life and binds all citizens without exception (Suteki, 2022). In realizing an ideal democracy, society must have greater opportunities to participate in the political process, meaning that all segments of society, from local to national, currently have a highly open space to engage in the competition for political status according to the prevailing regulations (Heriyanto, 2022). In reality, as a result of this phenomenon of political dynasties, society remains constrained by its social status and rights. If democracy means political power or governance carried out by, of, and for the people, political dynasties promote political convenience by encouraging specific groups to establish their political dynasties (Heriyanto, 2022).

Dynastic politics is the process of directing the regeneration of power for the benefit of certain groups for the purpose of gaining or maintaining power in a country (Rahma et al., 2022). The emergence of political dynasties and oligarchies, procedurally and structurally, not only occurs around the government but also in the political party sector (Syauket, 2021). A political party is a stable organized group of individuals with the aim of seizing or maintaining control over the government for the leadership of the party, and based on this control, providing both idealistic and material benefits to its members. Based on this understanding, it can be observed that the main element of a political party is the presence of interest in the form of power being pursued (Nika, 2021). Political parties are even referred to as the key to the functioning of democracy (Samuel, 2019), while the function according to Article 11 of the Political Party Law is as a means:

- a. Political education for members of the wider community to become Indonesian citizens who are aware of their rights and obligations in the life of society, nation and state.
- b. Creating a conducive climate for the unity and integrity of the Indonesian nation for the welfare of the community.
- c. Absorbing, collecting, and channeling the political aspirations of the community in formulating and determining state policies.
- d. Political participation of the Indonesian people. and
- e. Political recruitment is the process of filling political positions through democratic mechanisms with due regard to gender equality and justice.

In practice, oligarchy within political parties can result in decision-making that does not represent the broader interests of the society but only serves the interests of the oligarchic group. Oligarchy can also manipulate the candidate selection process or limit access for party members who wish to run for strategic positions. Oligarchy within political parties can be detrimental to democracy and healthy political participation. This is because the public cannot determine the best decisions for the common interest when decision-making is controlled by a small group with different interests from those of the wider society. Therefore, it is important to ensure that political parties operate within the legal framework and adhere to the established requirements and rules. Furthermore, political parties must ensure that the decisions made reflect the interests of the broader society, not just the interests of a small group or oligarchy within the party. Efforts to strengthen transparency, accountability, and member participation in decision-making can also help reduce the influence of oligarchy within political parties. Oligarchy is fundamentally the opposite of democracy. Democracy is a system of government where political power resides in the hands of the people. Important values of democracy include:

Suftyadi, A.R., Heniarti, D.D., Nu'man, A.H., (2023)

Oligarchic Politics in the Context of a Democratic Rule of Law in Relation to the Principle of Expediency

a. Representation: Leaders are elected by the people through general elections. The elected leaders should represent the interests of the entire population, not just specific interest groups.

b. Freedom: Society should have the freedom to express their opinions without fear of mockery, persecution, or punishment. Freedom of expression, organization, assembly, and the press are highly valued in a democratic system.

c. Equality: In a democratic system, everyone should be treated equally under the law. There should be no discrimination against specific groups based on religion, race, or gender.

d. Accountability: Elected leaders should be accountable for their actions. They should carry out their duties honestly, and transparently, and be open to scrutiny.

e. Participation: The public should have the opportunity to participate in the political process, including general elections and policy-making. Active citizen participation is key to the success of a democratic system.

f. Checks and balances: No individual or group should have unlimited power in a democratic system. There are checks and balances enforced through the separation of powers among different branches of government, as well as through the existence of human rights and civil liberties.

g. Development: Democracy is also related to economic and social development. A successful democratic system promotes healthy economic growth and strengthens social and economic rights for all individuals.

In principle, every policy or product of oligarchy is considered beneficial for a specific group, but it is not impossible for products of the oligarchic system to provide benefits to the broader society. It is essential that such a situation can be managed well, even though the policies are fundamentally aimed at benefiting their own group. This aligns with the perspective of utilitarianism. Utilitarianism was first developed by Jeremy Bentham (1748-1831). (Shaliha & Ufran, 2022). The issue faced by Bentham at that time was how to morally evaluate the goodness or badness of social, political, economic, and legal policies. In other words, how to assess the moral implications of a public policy that affects many people. Based on this, Bentham found that the most objective basis was to determine whether a policy or action brings benefit or useful results, or conversely, harm to those involved.

When it comes to law, Bentham stated that the goodness or badness of a law should be measured by the consequences it produces when applied. A new legal provision can be considered good if its application results in benefits, the greatest possible happiness, and a reduction in suffering. Conversely, it is considered bad if its application leads to unjust consequences, losses, and increased suffering. Therefore, it is not surprising that some experts regard this utility theory as the foundation of economic thought in legal thinking. The main principle of this theory revolves around the purpose and evaluation of law. The purpose of the law is to maximize the

Suftyadi, A.R., Heniarti, D.D., Nu'man, A.H., (2023)

Oligarchic Politics in the Context of a Democratic Rule of Law in Relation to the Principle of Expediency

well-being of the majority of the people or the entire population, and the evaluation of the law is based on the consequences produced through the process of its application. Based on this orientation, the content of the law consists of provisions that regulate the creation of societal well-being.

5. Conclusions

Oligarchy and democracy are two different systems of government. Oligarchy is a system of government where political power is held by a small group of wealthy individuals or elites, whereas democracy is a system of government where political power is held by the people, usually through general elections. Oligarchy is often seen as the opposite of democracy because, in an oligarchy, political power is concentrated in the hands of a few individuals who possess great wealth and economic influence, resulting in decision-making that primarily benefits the elite group rather than the interests of the people as a whole. On the other hand, democracy focuses on the participation of the people in decision-making and ensures that the interests of everyone are taken into account in the process. However, even in a democratic system that aims for equality and representation, there is a possibility of oligarchy emerging. In some cases, substantial wealth and economic power can significantly influence elections and political decision-making. This can lead to the emergence of oligarchy within a democratic system, where wealthy and powerful groups manipulate public policies to serve their interests. Therefore, it is important for a democratic system to ensure that people's participation in decision-making is fair and that every individual has an equal right to determine their future. This can be achieved through strict oversight of elections, transparency in the policy-making process, and limitations on the influence of wealth and economic power in politics.

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Suftyadi, A.R., Heniarti, D.D., Nu'man, A.H., (2023)

Oligarchic Politics in the Context of a Democratic Rule of Law in Relation to the Principle of Expediency

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